

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

DONALD K. LINDSAY and)	CIV. 12-5066-JLV
MARGARET A. LINDSAY,)	
individually and as personal)	JUDGMENT OF DISMISSAL
representatives of the estate of their)	
son, Jeffrey D. Lindsay,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
OWNERS INSURANCE COMPANY,)	
)	
Defendant.)	

Pending before the court are cross motions for summary judgment filed by plaintiffs and defendant on February 28, 2013. (Dockets 18 & 22). The court referred these motions to United States Magistrate John E. Simko for a report and recommendation. (Docket 33). On July 25, 2013, Judge Simko filed a report recommending the court grant plaintiffs' motion for summary judgment, deny defendant's motion for summary judgment, and deny plaintiffs' motion for attorney's fees. (Docket 34). The parties did not file objections to the report and recommendation, and the time for doing so passed.

The court finds the report and recommendation is an accurate and thorough recitation of the facts and applicable case law. The court further finds Judge Simko's legal analysis is well-reasoned. Having carefully reviewed the record in this case and good cause appearing, it is hereby

ORDERED that plaintiffs' motion for summary judgment (Docket 18) is granted.

IT IS FURTHER ORDERED that defendant's motion for summary judgment (Docket 22) is denied.

IT IS FURTHER ORDERED that plaintiffs' motion for attorney's fees (Docket 18) is denied.

IT IS FURTHER ORDERED that the report and recommendation (Docket 34) is adopted in full.

IT IS FURTHER ORDERED that judgment is entered on the merits and with prejudice in favor of plaintiffs and against defendant.

Dated August 29, 2013.

BY THE COURT:

/s/ Jeffrey L. Viken

JEFFREY L. VIKEN
CHIEF JUDGE